

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DEUTSCHE BANK NATIONAL
TRUST COMPANY,

2:12-CV-675 JCM (RJJ)

Plaintiff,

V.

HUMBERTO HERNANDEZ, et al.,

Defendants.

ORDER

Presently before the court is plaintiff Deutsche Bank National Trust Company's motion to remand this action to state court. Defendant Humberto Hernandez has not filed an opposition.

An action filed in state court may be removed to federal court if the federal court would have had original subject matter jurisdiction over the action. 28 U.S.C. § 1441(a). Subject matter jurisdiction exists over suits between citizens of different states where the amount in controversy exceeds to sum or value of \$75,000. 28 U.S.C. § 1332(a).

If a case is not removable based on the initial pleading, “a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper” which makes the action removable. 28 U.S.C. § 1446(b). The removal statutes are construed restrictively, and doubts regarding the viability of removal are resolved in favor of remanding the case to state court. *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108-09 (1941); see also *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

1 Mr. Hernandez was personally served in the state action on October 24, 2011. He did not
2 file a notice of removal, however, until April 23, 2012. This nearly six month delay is violative of
3 28 U.S.C. § 1446(b)'s strict 30-day time frame in removing a case to federal court. In light of Mr.
4 Hernandez's untimely removal, and his failure to oppose the motion to remand, *see* LR 7-2(d)
5 (failure to file points and authorities in opposition to a motion constitutes consent to the granting of
6 the motion), court grants plaintiff's motion.

7 IT IS SO ORDERED.

8 || DATED June 12, 2012.

X Jewell C. Mahan
UNITED STATES DISTRICT JUDGE